April 17, 2002

RE: Service Quality Standards for Electric Distribution Companies and Local Gas Distribution Companies, D.T.E. 99-84 (Gas Distribution Companies SQ Plans)

Dear Gas Distribution Companies:

On June 29, 2001, the Department of Telecommunications and Energy ("Department") ordered the gas distribution companies to file service quality ("SQ") plans that comply with the generic guidelines established by the Department ("Guidelines"). Service Quality Standards for Electric Distribution Companies and Local Gas Distribution Companies, D.T.E. 99-84, at 41-42 (June 29, 2001). On October 29, 2001, Berkshire Gas Company) ("Berkshire"), Blackstone Gas Company ("Blackstone"), Boston Gas Company ("Boston Gas"), Colonial Gas Company ("Colonial"), Essex Gas Company ("Essex"), Fall River Gas Company ("Fall River"), Fitchburg Gas and Electric Light Company ("Fitchburg Gas Division"), North Attleboro Gas Company ("North Attleboro"), and NSTAR Gas Company ("NSTAR Gas") (collectively "Companies") filed SQ plans.[1] At the request of the Department, the Companies made revisions to their SQ plans.[2] These revisions enhanced consistency among

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1 On November 5, 2001, Bay State Gas Company also filed an SQ plan. The Department will review the SQ plan for Bay State Gas Company separately. On December 6, 2001, Keyspan Energy Delivery New England ("Keyspan") filed a SQ plan that would apply to Boston Gas, Colonial and Essex, who together do business under the Keyspan name. This plan is superceded by the individual plans filed by Boston Gas, Colonial, and Essex on March 1, 2002 and will not be discussed in this Order.

2 The Companies filed the final revisions as follows: Berkshire Gas Company on February 13, 2002; Blackstone Gas Company on February 15, 2002, Boston Gas on March 1, 2002; Colonial on March 1, 2002; Essex on March 1, 2002; Fall River on

(continued…)

the SQ plans for all the gas distribution companies as well as with the SQ plans for electric distribution companies.[3]

The Department has reviewed the final SQ plans for the Companies. We conclude that the SQ plans for Berkshire, Boston Gas, Colonial, Essex, Fall River, Fitchburg Gas Division, North Attleboro, and NSTAR Gas incorporate the Guidelines and the directives in Service Quality Standards for Electric Distribution Companies and Local Gas Distribution Companies, D.T.E. 99-84-B, Order on Motion For Clarification (September 28, 2001) as well as maintain consistency among all the gas and electric distribution companies' SQ plans.

Blackstone's SQ plan varies from the Guidelines with respect to three SQ measures: Telephone Service; Service Appointments Met; and Lost Work Time Accident Rate. Blackstone seeks an exception to the Guidelines from these three SQ measures. Guidelines at XII; D.T.E. 99-84, at 42. Regarding the Telephone Service SQ measure, Blackstone proposes to maintain its current system, which requires a live person answering within three rings (Blackstone SQ plan at § II.A). The Department finds this proposal appropriate as this standard still requires the Company to answer within 20 seconds, the goal of the Guidelines at § II.A.

Regarding the Service Appointments SQ measure, Blackstone proposes to set its benchmark at 95 percent (Blackstone SQ plan at § II.B). Blackstone states that it did not miss any service appointments over the past three years (Blackstone SQ plan, Cover Letter). Blackstone argues that application of the Guidelines would require that Blackstone not miss any service appointments in any given year (id.). Blackstone concludes that this would impose an unduly onerous standard on Blackstone (id.). The Department agrees with Blackstone that application of the Guidelines at § II.B may impose an overly strict standard on Blackstone. Therefore, the Department finds Blackstone's proposal appropriate as an alternative to the Guidelines.

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[2](…continued)
March 7, 2002; Fitchburg Gas Division on February 19, 2002; North Attleboro on March 7, 2002; and NSTAR Gas on March 1, 2002.

[3] On November 7, 2001, the Division of Energy Resources ("DOER") , the Attorney General, Associated Industries of Massachusetts, The Energy Consortium, and Power Options, Inc. (collectively "the Customer Group") jointly filed a letter commenting on the SQ plans originally filed by NSTAR Gas and Fitchburg Gas Division. Similarly, on March 25, 2002, DOER and Associated Industries of Massachusetts ("AIM") filed joint comments on Berkshire's original SQ plan. Because the revisions made by NSTAR Gas, Fitchburg Gas Division, and Berkshire to their SQ plan address the concerns expressed by these groups, we will not discuss these comments.

Regarding the Lost Work Time Accident Rate SQ measure, Blackstone proposes to assume one accident per year with a duration of 30 days (Blackstone SQ plan at § VI.C). The Guidelines at § V.B establish the benchmark for this performance measure based on statistics filed with the Department of Labor by each gas and electric distribution company. Guidelines at II.B. Blackstone states that it does not file statistics with the Department of Labor regarding lost work time accidents because it has fewer employees than the threshold level established by the Department of Labor (Blackstone SQ plan, Cover Letter). Further, Blackstone argues, because it has not had any lost work time accidents since before 1986, application of the Guidelines would require that Blackstone have no lost work time due to accidents (id.). Blackstone concludes that this would impose an unduly onerous standard on Blackstone (id.). The Department recognizes that Blackstone has fewer than ten employees, and is therefore largely exempt from Department of Labor reporting requirements. 29 C.F.R. 1904.15. Moreover, the Department agrees that the application of the Guidelines at § V.B. may impose an overly strict standard on Blackstone. Therefore, the Department finds Blackstone's proposal with regard to lost work time accidents appropriate as an alternative to the Guidelines. In conclusion, consistent with the Guidelines at § XII, which allow for variance from the Guidelines upon justification, the Department approves Blackstone's SQ plan.

Having approved SQ plans for the specified gas distribution companies, we now turn to a determination of these SQ plans' effective dates. The Department developed the generic Guidelines pursuant to G.L. c. 164, § 1E for inclusion in performance-based ratemaking ("PBR") plans to be submitted by gas and electric distribution companies. To date, Berkshire and Boston Gas have implemented PBR plans. Berkshire Gas Company, D.T.E. 01-56 (2001); Boston Gas Company, D.P.U. 96-50 (1996). Addressing Berkshire first, we determine that its SQ plan, including penalties, will be effective January 1, 2002, a date proximate to the implementation of its PBR. See Berkshire Gas Company, D.T.E. 01-56, at 2-3, n.2.

Boston Gas has been operating since 1996 under a PBR plan that includes an SQ plan ("1996 PBR plan"). The Department determined that the 1996 PBR plan expired on November 1, 2001 and directed Boston Gas to file an SQ plan applying the Guidelines to replace the SQ program under the 1996 PBR plan (Letter dated November 1, 2001 from Department to Joseph Bodanza, senior vice-president, Keyspan Corporation at 3). As discussed above, Boston Gas has filed such an SQ plan but notes that the proposed SQ plan results in a slight mismatch in the performance measurement period because the reporting period under the 1996 PBR plan is the twelve-month period July 1 through June 30 versus the calendar year measurement period established in its SQ plan filed to comply with the Guidelines (Letter dated March 1, 2002 from Thomas O'Neill, Senior Counsel, Keyspan Energy Delivery). To address this inconsistency, Boston Gas proposes to (1) continue to track and measure performance for the twelve-month period July 1, 2001 through June 30, 2002, and (2) track and measure performance consistent with the SQ plan for the period January 1 through December 31, 2002 (id.). Boston Gas states that in its March 2003 filing, the Company would report results and calculate penalties for both periods. Boston Gas acknowledges that this would create overlapping SQ performance measurement for the months of January 1 through June 30, 2002 (id.). During this overlapping time, Boston Gas proposes that it be subject to potential penalties under both plans (id.).

Boston Gas' proposal provides an appropriate transition between the 1996 PBR plan and the SQ plan. First, the proposal places Boston Gas on the same calendar year basis for review as Colonial and Essex, which are also doing business as Keyspan Energy Delivery New England. Reviewing all three of these companies on a calendar-year basis will be more administratively efficient. Second, the proposal maintains the annual measurement and reporting framework that is necessary in an industry subject to seasonal fluctuations and endorsed by the Guidelines. D.T.E. 99-84, at 7 (August 17, 2000). Therefore, the Department approves Boston Gas' proposal to be subject to potential penalties under two plans for the months of January 1 through June 30, 2002.

The Department has also directed each company which has come before it seeking approval of a merger-related rate plan to include in that rate plan an SQ plan with penalties. See e.g., BECo Energy/ComEnergy Acquisition, D.T.E. 99-19, at 106-107 (2000); Fall River Gas Company/Southern Union Company Merger, D.T.E. 00-25, at 15 (2000); North Attleboro Gas Company/Providence Energy Corporation/Southern Union Company Merger, D.T.E. 00-26, at 14-15 (2000) Eastern-Colonial Acquisition, D.T.E. 98-128, at 78-79 (1999); Eastern-Essex Acquisition, D.T.E. 98-27, at 34 (1998). By doing so, the Department sought to ensure there would be no degradation of service following consummation of the mergers.

When the Department approved the acquisitions involving Colonial and Essex, we noted that they did not present an SQ plan. D.T.E. 98-128, at 78-79; D.T.E. 98-27, at 33. We directed Colonial and Essex to file proposed benchmarks for SQ measures, at which point the Department would establish SQ standards and associated penalties. D.T.E. 98-128, at 78-79; D.T.E. 98-27, at 34. Colonial and Essex have now filed SQ standards in accordance with the Guidelines. It is appropriate that the penalties associated with the Guidelines also be used with Colonial and Essex's SQ standards. Therefore, the Department finds that Colonial's and Essex's SQ plans, including the penalty provisions, are effective January 1, 2002.

Similarly, when the Department approved the mergers involving Fall River and North Attleboro, we directed them to file SQ plans either within 18 months or in accordance with any directives prescribed in D.T.E. 99-84. D.T.E. 00-25, at 15; D.T.E. 00-26, at 14-15. Fall River and North Attleboro have now filed SQ standards and penalties in accordance with the Guidelines. Therefore, the Department finds that Fall River's and North Attleboro's SQ plans, including the penalty provisions, are effective January 1, 2002.

With respect to Blackstone and Fitchburg Gas Division, the Department notes that they are not operating under a PBR nor have they come before us seeking approval of a merger-related rate plan. Therefore, the penalty provisions of their SQ plan are not in effect as yet. The Department directs Blackstone and Fitchburg Gas Division to continue filing their SQ annual reports, for informational purposes only.

Finally, we address NSTAR Gas' effective date for its SQ plan. When the Department approved a rate plan in conjunction with NSTAR Electric[4] as well as NSTAR Gas, the Department also approved SQ plans that did not include a penalty mechanism. D.T.E. 99-19, at 106-107. The Department directed NSTAR to file a proposal for a penalty mechanism within six months of the date of the merger. Id. at 107. Later, at NSTAR's request, the Department deferred any decision concerning the penalty mechanism pending the completion of the Department's generic investigation in D.T.E. 99-84 (Letter dated August 22, 2001 from Department's General Counsel). Having concluded the generic investigation, the Department now decides that the SQ standards and penalties provisions of the Guidelines shall apply to NSTAR Gas from the date the Department approved its merger. This is in accord with the Order in Investigation into Quality of Electric Service by NSTAR , D.T.E. 01-71A, at 21 (2002).[5]

Since we have determined that NSTAR Gas's plan is already in effect, we must now address its performance pursuant to that Plan. On March 1, 2002, NSTAR Gas filed in this proceeding its first annual SQ report and provided its SQ data through December 31, 2001. The Department has reviewed this SQ data and we conclude that NSTAR Gas met or exceeded its performance benchmarks for the period September 1, 1999 through December 31, 2001 (NSTAR Gas Annual Report at 2-3, App.1, App. 7; see also D.T.E. 01-71A, Exh. NSTAR-3

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4 Boston Edison Company, Cambridge Electric Light Company, and Commonwealth Electric Company are the three companies who do business as NSTAR Electric.

5 In that proceeding, the Department calculated penalties for Boston Edison Company and Commonwealth Electric Company from September 1, 1999 through August 31, 2001, in accordance with the mechanism delineated by the Department in D.T.E. 99-84, and amounting to $3,249,499 in net penalties payable to customers of these two companies. Boston Edison Company was subject to a penalty of $3,207,141, and Commonwealth Electric Company was subject to a penalty of $42,358. D.T.E. 01-71A at 21. The Department did not examine NSTAR Gas' data in D.T.E. 01-71A as that proceeding dealt only with NSTAR Electric's SQ performance. Id. at 8-9.

(supp.)). Accordingly, the Department finds that NSTAR Gas is not subject to any SQ penalties for this reporting period.

By Order of the Department,

James Connelly, Chairman

W. Robert Keating, Commissioner

Paul B. Vasington, Commissioner

Eugene J. Sullivan, Jr., Commissioner

Deirdre K. Manning, Commissioner

cc: D.T.E. 99-84 Service List